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Counsel for Diane G. Reed, as Chapter 7 Trustee

#### **REED & ELMQUIST, P.C.**

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# IN THE UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

Chapter 7

In re:

BFN OPERATIONS LLC,

Debtor.

Case No. 16-32435-BJH-7

# TRUSTEE'S FIFTH MOTION TO APPROVE SETTLEMENTS OF AVOIDANCE ACTIONS PURSUANT TO FED. R. BANKR. P. 9019

NO HEARING WILL BE CONDUCTED HEREON UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE BANKRUPTCY COURT, 1100 COMMERCE STREET, ROOM 1254, DALLAS, TEXAS 75242, ON OR BEFORE CLOSE OF BUSINESS TWENTY-ONE (21) DAYS FROM THE DATE OF SERVICE HEREOF.

ANY RESPONSE MUST BE IN WRITING AND FILED WITH THE CLERK. A COPY MUST BE SERVED UPON COUNSEL FOR THE TRUSTEE PRIOR TO THE DATE AND TIME SET FORTH HEREIN. IF A RESPONSE IS FILED, A HEARING WILL BE HELD WITH NOTICE ONLY TO THE RESPONDING PARTY.

IF NO RESPONSE IS TIMELY FILED, THE RELIEF REQUESTED MAY BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT WITHOUT CONDUCTING A HEARING.

TO THE HONORABLE BARBARA J. HOUSER, U. S. BANKRUPTCY JUDGE:

Diane G. Reed, the duly-appointed Chapter 7 Trustee (the "<u>Trustee</u>") of BFN Operations,

LLC ("BFN Operations" or the "Debtor") in the above-captioned chapter 7 case, by and through

TRUSTEE'S FIFTH MOTION TO APPROVE SETTLEMENTS OF AVOIDANCE ACTIONS PURSUANT TO FED. R. BANKR. P. 9019 - Page 1 of 7

counsel, files this *Trustee's Fifth Motion to Approve Settlements of Avoidance Actions Pursuant to Fed. R. Bankr. P. 9019* (the "Settlement Motion"), and in support thereof would respectfully show as follows:

#### I. Jurisdiction and Venue

1. The Court has jurisdiction to consider the relief requested herein under 28 U.S.C. § 1334(b) and the standing order of reference of the District Court. This Settlement Motion concerns the compromise and settlement of claims of the estate. It is, therefore, a core proceeding under 28 U.S.C. § 157(b)(2)(A). Venue is proper under 28 U.S.C. § 1409.

# **II.** Introductory Statement

2. In support of this Settlement Motion the Trustee has attached hereto as **Exhibit A** her affidavit ("Trustee Reed's Affidavit") which sets forth the factual basis and business justification for the settlements described *infra*.

# **III.** Summary of Settlements

3. By this Settlement Motion, the Trustee is seeking this Court's approval for the compromise and settlement of certain avoidance actions (the "Avoidance Actions") filed pursuant to sections 547 – 550 of the Bankruptcy Code against nine (9) defendants (the "Settling Parties"). An exhibit containing the name of each Settling Party, the total amount of the transfers received by each Settling Party, and the amount paid or to be paid by each Settling Party to the Trustee in settlement of each Avoidance Action ("Settlement Amount"), is attached as Exhibit 1 to Trustee Reed's Affidavit. As reflected in Exhibit 1 to Trustee Reed's Affidavit, the Settlement Amount is at least 65% of the Net Preference Amount.

# IV. Factual and Procedural Background

4. On June 17, 2016 (the "Petition Date") BFN Operations and affiliated entities

(collectively, the "<u>Debtors</u>")<sup>1</sup> (collectively, the "<u>Bankruptcy Cases</u>"), filed voluntary petitions for relief in this Court under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. § 101 et seq. (the "<u>Bankruptcy Code</u>").

- 5. On June 21, 2016, the Court entered an order authorizing the joint administration of the chapter 11 cases for procedural purposes only.<sup>2</sup>
- 6. On January 20, 2017, the Court entered an order converting the Debtors' cases to cases under chapter 7 of the Bankruptcy Code (the "Conversion Order") [D.I. 559], and the Trustee was appointed as Chapter 7 Trustee in the Bankruptcy Cases.
- 7. On March 3, 2017, the Trustee filed an application (the "Employment Application") pursuant to §§ 327 and 328(a) of the Bankruptcy Code to employ ASK LLP ("ASK") as special counsel to investigate and to seek recovery of preferential transfers and other avoidable transfers made by BFN Operations. The services performed by ASK and the terms and conditions of their employment are set forth in an engagement letter agreement between the Trustee and ASK, dated February 23, 2017 (the "Engagement Letter").
- 8. On March 30, 2017 this Court entered an order approving the Employment Application pursuant to §§ 327 and 328(a) of the Bankruptcy Code and the Engagement Letter.
- 9. Pursuant to the terms of the Engagement Letter, ASK undertook a detailed and indepth analysis of preference claims and prepared a report for the Trustee regarding same. ASK thereafter sent out over 100 demand letters to potential preference defendants, and between June 12, 2018 and June 15, 2018 filed avoidance actions against certain preference defendants whose

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<sup>&</sup>lt;sup>1</sup> The five debtors in these cases and the last four digits of each Debtor's federal tax identification number are as follows: BFN Operations LLC (3891); BFN Properties LLC (4117); BFN Holdings, LLC (3817); BFN Property Management LLC (4048); and BFN Investment Holdings LLC (6330). The Debtors' principal place of business was located at 8700 Freeport Parkway, Ste. 100, Irving, Texas 75063. On or about June 26, 2017, all of the Debtors' cases other than that of BFN Operations were closed as "no asset."

<sup>2</sup> D.I. 39.

preference actions remained outstanding as of June 12, 2018. ASK engaged in settlement negotiations on behalf of the Trustee both prior to and subsequent to filing suit. These settlement negotiations with the defendants were done in accordance with settlement parameters set by the Trustee. Through these negotiations the Trustee was able to enter into settlement agreements with the Settling Parties. The basic terms of these settlements (the "Proposed Settlements") are as follows: in exchange for the Trustee's receipt of the Settlement Amount listed on Exhibit 1 to Trustee Reed's Affidavit, which is attached hereto as **Exhibit A**, the Trustee will release any and all claims against each Settling Party relating to the transfers by BFN Operations to the Settling Party and will dismiss with prejudice the subject Avoidance Actions.

# V. Relief Requested and Basis for Relief

- 10. Pursuant to Bankruptcy Code sections 547, 548, 550, and 704(a), the Trustee is authorized and has standing to investigate, pursue, commence, prosecute, compromise, settle, or otherwise resolve certain causes of action under chapter 5 of the Bankruptcy Code, including the Avoidance Actions for which the Trustee now seeks the Court's settlement approval.
- 11. Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure the Trustee requests the Court's approval of the Proposed Settlements with the Settling Parties of the Avoidance Actions, as described above. Federal Rule of Bankruptcy Procedure 9019(a) provides, in pertinent part, that "on motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement."
- 12. In the Fifth Circuit, *In re Foster Mortg. Corp.*, 68 F.3d 914, 917-918 (5th Cir. 1994), and *In re Cajun Elec. Power Cooperative, Inc.*, 119 F.3d 349, 355-56 (5th Cir. 1997), provide enumerated factors this Court must consider in evaluating a motion under Bankruptcy Rule 9019, which include:

- "(1) The probability of success in the litigation, with due consideration for the uncertainty in fact and law,
- (2) The complexity and likely duration of the litigation and any attendant expense, inconvenience and delay, and
- (3) All other factors bearing on the wisdom of the compromise," [which includes]
  - a) "the amount of creditor support . . . as a way to show deference to the reasonable views of the creditors;" and
  - b) "the extent to which the settlement is truly the product of armslength bargaining, and not fraud or collusion."

Foster Mortg. Corp., 68 F.3d 914, 917-918 (internal citations omitted). Each of the foregoing factors is discussed below in the context of these Proposed Settlements.

# A. Trustee's Probability of Success; Uncertainty of Outcome

13. Based upon advice of her counsel, ASK, the Trustee believes she has meritorious claims and that she should prevail on each of these claims if the Avoidance Actions are prosecuted to judgment. However, the Trustee agreed to each Proposed Settlement based on a variety of factors, including the evaluation of Bankruptcy Code section 547(c) defenses to the underlying claims, which could reduce the amount recoverable from the gross amount demanded. Additionally, the outcome is far from certain, and even meritorious claims bear risk of an unexpected outcome at trial, especially concerning the asserted affirmative defenses of the Settling Parties. The Proposed Settlements with the Settling Parties eliminate this outcome risk.

# B. Complexity and Duration of Litigation; Attendant Expense and Delay

14. The Proposed Settlements will eliminate the potentially high costs of litigation, which may include fact and expert witnesses. Collectability issues were also considered, as prompt and voluntary payments by the Settling Parties result in immediate and certain payment to the Trustee, whereas the collectability of any judgment obtained via dispositive motion

practice or trial and after significant time has passed from the initial demand date is far from certain. Additionally, if the Trustee were to continue to litigate to collect the full amount the Trustee has demanded in order to pay timely filed and allowed claims of creditors, litigation costs and expenses would exceed the difference between the amount demanded after defenses and the Settlement Amount.

# C. Other Factors Bearing on Compromise

#### i. The Interests of Creditors

15. The settlements are in the best interests of creditors because the Settlement Amounts represents a fair recovery on the preference claims (in light of anticipated §547(c) defenses), resolves the claims without the need for litigation and the attendant litigation costs, and provides assets for distribution to creditors with timely filed and allowed claims.

# ii. Arms-Length Negotiations

16. The Proposed Settlements were achieved after arms-length negotiations between counsel for the Trustee and the Settling Parties and/or their counsel. Based upon the advice of her counsel, the Trustee believes that these settlements are a fair and reasonable resolution of the subject preference claims.

# VI. Prayer

WHEREFORE, the Trustee respectfully requests an order approving the Proposed Settlements of the Avoidance Actions as set forth herein and authorizing the Trustee to consummate the Proposed Settlements according to their terms.

Dated: January 31, 2019 Respectfully Submitted,

#### **ASK LLP**

By: /s/ Kara E. Casteel
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Kara E. Casteel, Esq., MN SBN 0389115
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-and-

# **REED & ELMQUIST, P.C.**

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Counsel for Diane G. Reed, as Chapter 7 Trustee

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Counsel for Diane G. Reed, as Chapter 7 Trustee

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Email: delmquist@bcylawyers.com

Case No. 16-32435-BJH-7

# IN THE UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

Chapter 7 In re:

BFN OPERATIONS LLC,

Debtor.

# AFFIDAVIT OF DIANE G. REED, TRUSTEE

STATE OF TEXAS §

§ § **COUNTY OF ELLIS** 

**BEFORE ME**, the undersigned authority, on this day personally appeared **DIANE G**.

REED, who, after being duly sworn, upon her oath deposed and stated as follows:

- My name is Diane G. Reed. I am more than twenty-one (21) years of age and am competent and authorized to make this Affidavit. I have personal knowledge of the facts set forth herein and they are true and correct.
- This Affidavit is filed in support of my Fifth Motion to Approve Settlements of Avoidance Actions Pursuant to Fed. R. Bankr. P. 9019 (the "Settlement Motion"), which I instructed my counsel to file.

- 3. On June 17, 2016 (the "Petition Date"), BFN Operations LLC ("BFN Operations" or the "Debtor") and affiliated entities (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code initiating the above-referenced case with this Court.
- 4. On June 21, 2016, the Court entered an order authorizing the joint administration of the chapter 11 cases for procedural purposes only.
- 5. On January 20, 2017, the Court entered an order converting the Debtors' cases to cases under chapter 7 of the Bankruptcy Code. I was thereafter appointed as the Chapter 7 trustee for the Debtors' estates.
- 6. On March 3, 2017, I filed an application (the "Employment Application") pursuant to §§ 327 and 328(a) of the Bankruptcy Code to employ ASK, LLP ("ASK") as special counsel to investigate and to seek recovery of preferential transfers and other avoidable transfers made by BFN. The services to be performed by ASK and the terms and conditions of their employment are set forth in an engagement letter agreement between the Trustee and ASK, dated February 23, 2017 (the "Engagement Letter") which was attached as an exhibit to the Employment Application.
- 7. On March 30, 2017, this Court entered an order approving the Employment Application pursuant to §§ 327 and 328(a) and the Engagement Letter.
- 8. Pursuant to the terms of the Engagement Letter, ASK undertook a detailed and indepth analysis of preference claims and prepared a report for me regarding same. ASK thereafter sent out on my behalf over 100 demand letters to potential preference defendants, and between June 12, 2018 and June 15, 2018 filed avoidance actions against certain preference defendants whose preference actions remained outstanding as of June 12, 2018. ASK engaged in settlement negotiations on my behalf with the preference defendants both prior to and subsequent to filing suit, in accordance with settlement parameters I set. Through my counsel, ASK, I was able to negotiate settlements with nine of the preference defendants (hereinafter referred to as the "Settling Parties").
- 9. Pursuant to Bankruptcy Code sections 547, 548, 550, and 704(a), as well as pursuant to the conversion order and my appointment, I am authorized and have standing to investigate, pursue, commence, prosecute, compromise, settle, or otherwise resolve certain causes of action under chapter 5 of the Bankruptcy Code.
- 10. I have asserted preference claims and, in the alternative, constructively fraudulent transfer claims against the Settling Parties<sup>2</sup> based upon their receipt of transfers from BFN Operations during the ninety (90) day period prior to the Petition Date.

<sup>&</sup>lt;sup>1</sup> The five debtors in these cases and the last four digits of each Debtor's federal tax identification number are as follows: BFN Operations LLC (3891); BFN Properties LLC (4117); BFN Holdings, LLC (3817); BFN Property Management LLC (4048); and BFN Investment Holdings LLC (6330). The Debtors' principal place of business was located at 8700 Freeport Parkway, Ste. 100, Irving, Texas 75063. On or about June 26, 2017, all of the Debtors' cases other than that of BFN Operations were closed as "no asset."

<sup>&</sup>lt;sup>2</sup> All terms not defined herein shall have those meanings ascribed to them in the Settlement Motion.

- 11. On or about May 4, 2018, I made a letter demand through my counsel at ASK upon each of the preference defendants, including the Settling Parties. In the demand letter I offered a 10% discount off of the net preference claim, after each of the preference defendants was offered subsequent new value credit for qualifying new value under 11 U.S.C. § 547(c)(4).
- 12. Between June 12, 2018 and June 15, 2018, I filed lawsuits against each of the preference defendants with whom I had not reached a prior resolution of the preference demand through my counsel at ASK.
- After a series of offers and counteroffers, I agreed to a payment of the Settlement Amount from each of the Settling Parties, as listed on **Exhibit 1** attached hereto, in exchange for a release of any and all claims held by me in my capacity as Trustee against the Settling Parties relating to the transfers by BFN Operations to the Settling Parties (the "Proposed Settlements"). The Settlement Amount is at least 65% of the Net Preference Amount.<sup>3</sup>
- 14. Subject to this Court's approval, I have accepted the Settlement Amounts in satisfaction of my claims against the Settling Parties.
- 15. Based upon advice of my counsel at ASK, I believe I have meritorious claims against each of the Settling Parties and that I should prevail on these claims if the Avoidance Actions are prosecuted to judgment. However, I have also been advised by my counsel at ASK that the attendant expense in such litigation and the delay in resolving the Avoidance Actions would be significant. The delay and uncertainty of any eventual litigation and accompanying litigation expenses will be avoided by the Proposed Settlements.
- 16. Furthermore, the fees and expenses that would be incurred continuing to litigate the Avoidance Actions would result in additional administrative expenses in the case that would likely exceed the difference between the amount I anticipate recovering (after consideration of available defenses) and the Settlement Amounts.
- 17. I believe that compromising and settling the Avoidance Actions is in the best interests of creditors because the Settlement Amounts represent fair recoveries on the Avoidance Actions, resolves the claims without the need for further litigation and the attendant litigation costs, and provides assets for distribution to creditors with timely filed and allowed claims.
- 18. The Avoidance Actions were resolved through arms-length negotiations between my counsel at ASK and either the Settling Parties and/or their counsel.

<sup>&</sup>lt;sup>3</sup> "Net Preference Amount" is defined as the total transfers less all applicable new value credit (*i.e.*, credit for subsequent unpaid invoices as well as invoices paid with otherwise avoidable transfers) and appropriate credit for the ordinary course of business defense.

FURTHER SAYETH THE AFFIANT NOT.

DATED: January 31, 2019.

Diane G. Reed, Trustee 501 N. College Street Waxahachie, TX 75165

(972) 938-7334

(972) 923-0430 (fax)

STATE OF TEXAS

§ §

**COUNTY OF ELLIS** 

§

This instrument was SUBSCRIBED AND SWORN TO before me on January 31, 2019 by DIANE G. REED, to certify which witness my hand and seal of office.

REGINA BURTON Notery Public, State of Texas Comm. Expires 02-23-2022 Notary ID 782969-2

Notary Public, State of Texas

Exhibit 1

# Schedule of Settlements Subject to Court Approval

Company Name	Adversary Number	Total Transfers	Settlement	Comment
BWI Companies, Inc.	18-03101	\$ 1,072,266.77	\$ 40,000.00	Settlement is at least a 65% recovery of the Net Preference Amount after defenses under $547(c)(2)$ and $(c)(4)$ .
D & D Oil Co. TN, Inc. fdba D&D Oil Co, Inc.	18-03103	\$ 31,970.32	\$ 3,500.00	Settlement is at least a 65% recovery of the Net Preference Amount after defenses under 547(c)(2) and (c)(4).
David J. Rose dba Rose Transport	18-03105	\$ 21,226.46	\$ 750.00	Settlement is at least a 65% recovery of the Net Preference Amount after defenses under 547(c)(2) and (c)(4).
Independent Contractor Services, Inc. dba ICS, Inc.	18-03116	\$ 24,334.87	\$ 16,000.00	Settlement is at least a 65% recovery of the Net Preference Amount after defenses under $547(c)(2)$ and $(c)(4)$ .
Merle Boes, Inc.	18-03124	\$ 104,703.41	\$ 15,000.00	Settlement is at least a 65% recovery of the Net Preference Amount after defenses under $547(c)(2)$ and $(c)(4)$ .
Orora Visual TX LLC dba IntegraColor	18-03183	\$ 678,799.57	\$ 249,000.00	Settlement is at least a 65% recovery of the Net Preference Amount after defenses under 547(c)(2) and (c)(4).
Ramon Ramirez dba R & R Transport	18-03133	\$ 101,410.41	\$ 3,750.00	Settlement is at least a 65% recovery of the Net Preference Amount after defenses under $547(c)(2)$ and $(c)(4)$ .
Spencer Transportation Specialist LLC dba Spencer Transportation Services	18-03195	\$ 313,172.31	\$ 6,000.00	Settlement is at least a 65% recovery of the Net Preference Amount after defenses under 547(c)(2) and (c)(4).

				Settlement is at least a 65% recovery of	_
	-			the Net Preference Amount after defenses	
Stand-By-Personnel. Inc.	18-03196	\$ 371,298.00	\$ 24 500 00	) under $547(c)(2)$ and $(c)(4)$ .	

# **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on January 31, 2019, a true and correct copy of the foregoing *Trustee's Fifth Motion To Approve Settlements Of Avoidance Actions Pursuant To Fed. R. Bankr. P. 9019* was served electronically on all registered ECF users in this case, and by United States first class mail on the attached Service List.

/s/ Kara E. Casteel
Kara E. Casteel

Case 16-32435-bjh7 Doc 763 Filed 01/31/19 Entered 01/31/19 08:41:27 Page 15 of 25 Wilson County Tax Collector Tennessee Steel Haulers, Inc. North Texas Tollway Authority PO Box 1162 2607 Brick Chruck Pike NTTA Wilson, NC 27894 Nashville, TN 37207 PO Box 660244 Dallas, TX 75266 Arkansas Department of Workforce Svcs. **Dallas County** Cantrell's Portable Toilets c/o Linebarger Goggan Blair Sampson LLP PO Box 8007 1432 Meiser Lane Attn: Laurie Spindler Huffman Little Rock, AR 72003 McMinnville, TN 37110 2777 N. Stemmons Frwy. Ste. 1000 Dallas, TX 75207 Ford Motor Credit Company LLC The Whaley Place Steven Ferguson c/o National Bankruptcy Svc. Center PO Box 160 124 N. Main Street PO Box 62180 Wagoner, OK 74467 Forest Hill, LA 71430 Colorado Springs, CO 80962 KWIK Ice, Inc. Fire Services Plus Inc. Mid-Tenn Water Treatment Co, Inc. PO Box 186 Attn: Doug Vandecovering PO Box 40858 Ketchum, OK 74349 17675 SW Farmington Rd. #118 Nashville, TN 37204 Beaverton, OR 97078 Walter A. Woods Supply Inc. Travis Jones Mark Parkhurst PO Box 100 PO Box 636 338 Parkhurst Rd. Rossville, GA 30741 Gretna, FL 32332 McMinnville, TN 37110 **Kustom Printing Products** Siteone Landscape Supply Morrison Industrial Equipment 157 Georgia Lane f/k/a John Deere Landscapes PO Box 1803 300 Colonial Center Pkwy., Ste. 550 Grand Rapids, MI 49501 Smithville, TN 37166 Roswell, GA 30076 Hampshire Farms, LLC MSC Industrial Supply Fred C. Gloeckner, Co., Inc. 75 Maxess Road 14N850 RT. 20 550 Mamaroneck Avenue Hampshire, IL 60140 Melville, NY 11747 Harrison, NY 10528 A-Plus Fastners LLC Portland General Electric (PGE) Rycenga Building Center 107 Magness Dr. 7995 SW Mohawk St./ERC c/o Andrew Raffaele McMinnville, TN 37110-1343 Tualatin, OR 97062 1053 Jackson Street Grand Haven, MI 49417 Freeman Creek Equipment

Quality Door Company 2481 Van Ommen Dr. Holland, MI 49424 Western Carolina Forklift, Inc. 6392 Burnt Poplar Ct. Greensboro, NC 27409

7511 N. US 31 Freesoil, MI 49411

Williams Dorian Arnold 33 Church Street, Apt. #8 Gretna, FL 32332 Northern Safety Co. Inc. PO Box 4250 Utica, NY 13504-4250 HPS Pipe Supply, Inc. PO Box 890 Cornelius, OR 97113

Case 16-32435-bjh7 Doc 763 Filed 01/31/19 Entered 01/31/19 08:41:27 Page 16 of 25 Integracolor, LLC Preferred Chevrolet Buick GM Rodrigo Cortez 1950 Ike Adcock Road Attn: Kathy Luckey 1701 S. Beacon Blvd. 3210 Innovative Way Grand Haven, MI 49417 Smithville, TN 37166 Mesquite, TX 75149 CNH Industrial Capital America LLC Tennessee Department of Revenue BWI Companies, Inc. CNH Capital America LLC c/o Attorney General c/o McNally-Patrick LLP PO Box 3600 PO Box 20207 Attn: Glen Patrick Lancaster, PA 17604 Nashville, TN 37202-0207 100 E. Ferguson, Ste. 400 Tyler, TX 75702 Uline Shipping Supplies AGCO Finance, LLC Ferguson Enterprises, Inc. 12575 ULine Drive 3108 S. Memorial Drive PO Box 2000 Pleasant Prairie, WI 53158 Greenville, NC 27834 Johnston, IA 50131 Hatfield Spraying Service, Inc. Nina L. Washington Stand-By Personnel, Inc. c/o Timothy L. Rogers 18155 120<sup>th</sup> 3406 E 35<sup>th</sup> Street 110 W. 7<sup>th</sup> St., Ste. 900 P.O. Box 8 Kansas City, MO 64128 Tulsa, OK 74119 Nunica, MI 49448 Marcelino R. Martinez James Scott Lucas Jason Lee Miller c/o Margie Rigsby Miller, Esq. 4270 Ellis Ln Lucas Lawn Care PO Box 1064 109 N. Spring St. 5422 Carr Road McMinnville, TN 37110 Bailey, NC 27807 Wilson, NC 27893 **XPO** Logistics Parker Davis Co, Inc. Wilson Trailers Sales - Service c/o Joseph Lain 2310 N. Tryon St. PO Box 3637 Charlotte, NC 28206 13777 Ballantyne Corporate Place Wilson, NC 27895 Suite 400 Charlotte, NC 28277 Louisiana Forest Seed Co. Inc. Greenmark Equipment, Inc. Jones Electric Company 303 Forestry Road 4098 M-40 1965 Sanford Street Lecompte, LA 71346 Holland, MI 42423 Muskegon, MI 49441 N-L Business Systems, Inc. Victor Miguel Godinez Juarez James Serrano PO Box 459 9962 West Green Hill Rd. 184 Sawmill Rd. Smithville, TN 37166 Livingston, TN 38570 McMinnville, TN 37110 Greenier Side Nursery Pedro Carrillo Mata Gilberto G. Muniz c/o Michael Kelly Johnson 587 Talley Rd. 7024 Short Mountain Hwy. 644 Parkhurst Rd. Smithville, TN 37166 Smithville, TN 37166 McMinnville, TN 37110

Erasmo Godinez 6451 Short Mountain Hwy. Smithville, TN 37166 Rocio Soto 4091 Short Mountain Hwy. Smithville, TN 37166 Miguel Soso 6451 Short Mountain Hwy. Smithville, TN 3766

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Julian Guerrero Soto 185 Meridian Drive Smithville, TN 37166 Victor G. Avalos 7052 Short Mountain Rd. Smithville, TN 37166 Kathy Kaye Cantrell 1405 Underhill Rd. Smithville, TN 37166

Carolina Telephone and Telegraph, LLC d/b/a CenturyLink
CenturyLink Communications Bankruptcy 1801 California St., Rm 900
Denver, CO 80202

Norberto Guzman 7024 Short Mountain Hwy. Smithville TN 37166 Jose Gonzalez 2044 Alva Jones Rd. Rock Island, TN 38581

J. Guadalupe Godinez-Soto 265 Banks Pisgah Rd. Smithville, TN 37166 Anita Hendrix 195 Poplar St. Smithville, TN 37166

David Kilgore 4245 Blue Springs Rd. Smithville, TN 37166

Mauro Cruz Ponce 2317 Bluff Springs Rd. McMinnville, TN 37110

Leonardo Cortez 1108 Big Woods Rd. Smithville, TN 37166 Ronnie Arnold d/b/a Lay A Farm Nursery 270 V.L. Wilson Loop Smithville, TN 37166

Fidel Godinez 6048 AB Finacier Rd. Smithville, TN 37166 Jose Luis Uvalle 4833 W. Green Rd. McMinnville, TN 37110 Wilson Immediate Care PA PO Box 3468 Wilson ,NC 27895

Jewel's Construction 7592 McMinnville Hwy. Smithville, TN 37165

Wagoner Lumber Company, Inc. Tahlequah Lumber Company, Inc. 1701 Park Hill Rd. Tahlequah, OK 74464 Law Office of Michael R. Green, PLLC c/o Michael Green 3739 E. 31<sup>st</sup> Street Tulsa, OK 74135

City of Wilson/Wilson Energy PO Box 10 Wilson, NC 27894

Jeffery Hall c/o Brian R. Berry Berry – Otterson, PLLC 2230 East 49<sup>th</sup> St., Ste. A Tulsa, OK 74105 Estella Falcon c/o Brian R. Berry Berry – Otterson, PLLC 2230 East 49<sup>th</sup> St., Ste. A Tulsa, OK 74105

Vioney Sierra c/o Brian R. Berry Berry – Otterson, PLLC 2230 East 49<sup>th</sup> St., Ste. A Tulsa, OK 74105 Edith Marquez c/o Brian R. Berry Berry – Otterson, PLLC 2230 East 49<sup>th</sup> St., Ste. A Tulsa, OK 74105 Erosto Santana c/o Brian R. Berry Berry – Otterson, PLLC 2230 East 49<sup>th</sup> St., Ste. A Tulsa, OK 74105

Kenneth W. Roy c/o Brian R. Berry Berry – Otterson, PLLC 2230 East 49<sup>th</sup> St., Ste. A Tulsa, OK 74105 Christina Balderas-Garcia c/o Brian R. Berry Berry – Otterson, PLLC 2230 East 49<sup>th</sup> St., Ste. A Tulsa, OK 74105 Briggs Nursery PO Box 658 Elma, WA 98541

Aim to Please LLC PO Box 701708 Tulsa, OK 74170 Foliage Plants, Inc. Attn: Felix Duque 24550 SW 167Ave. Homestead, FL 33031 Manzanarez Transito 2215 W. Jefferson St., Lot 29 Quincy, FL 32351-1901

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Fabiana Mateo Sebastian Harris Country, et al Go For Direct Independence c/o Linebarger Goggan Blair Sampson, LLP PO Box 263 PO Box 210337 Attn: John P. Dillman Cookeville, TN 38501 Bedford, TX 76095 PO Box 3064 Houston, TX 77253-3064 Ring Power Corporation Crescent Electric Supply Company Southeastern Wire Fabricators, Inc. c/o Renee Doane 10421 Fern Hill Drive Tammy Drake 640 44<sup>th</sup> Street SW #2 271 Williams Hill Rd. Riverview, FL 33578 Grand Rapids, MI 49548 Hemingway, SC 29554 Ricky Knowles White's Tire Svc. Whittinghill Disposal Svc. Inc. 4908 Jacob Pillar Rd. 6000 South Cherokee PO Box 1469 Smithville, TN 37166 Muskogee, OK 74403 Wilson, NC 27894 Landstar Ranger Inc. CHS, Inc. Sadler Paper Compny 4670 Washington St. 1 W. Cincinnati Ave. Attn: Dawn Bowers Hamilton, MI 49419 Muskogee, OK 74401 13410 Sutton Park Drive South Jacksonville, FL 32224 Keys, Tallettris J. Pearce Worldwide Logistics, Inc. **Baxter Bailey** 620 South Atlanta Street Assignee of Left Coast Logistics 5120 Virginia Way, Ste. C23 Apt. #N228 Brentwood, TN 37027 c/o Barbara Brady 1630 Goodman Rd. E., Ste. 3 Quincy, FL 32351 Southaven, MS 38671 **Baxter Bailey** Speedway LLC Waste Industries Assignee of OnLine Freight Svcs. Inc. PO Box 1590 c/o RMS c/o Barbara Brady Springfield, OH 45501 PO Box 361345 1630 Goodman Rd. E., Ste. 3 Columbus, OH 43236 Southaven, MS 38671 Nature's Way Nursery of Miami, Inc. Randy Lewis Blu Site Solutions of N. Carolina, Inc. c/o Alison Depew 16521 Turner Rd. 257 Castleberry Industrial Dr. PO Box 971129 Cumming, GA 30040 Lansing, MI 48906 Miami, FL 33197-1129 NSB, Inc. Plant Source, Inc. Jerry T. Bunn Trucking LLC 437 Ward Blvd. 2029 Sycamore Drive 7164 Flat Rock Rd. San Marcos, CA 92069 Sims, NC 27880 PO Box 1235 Wilson, NC 27893 **Dealers Electrical Supply** Michigan Gas Utilities Corporation Rain – Hail, LLC 9200 Northpark Dr., Ste. 300 PO Box 2676 PO Box 19003 Johnston, IA 50131 Waco, TX 76702 Green Bay, WI 54307

Suburban Propane 240 Route 10 West Whippany, NJ 07981 New Jersey Turnpike Authority Law Dept. - c/o Mark Seider PO Box 5042 Woodbridge, NJ 07095-5042

IBM Corp c/o Marie-Josee Dube 275 Viger East Montreal, QC H2Xe\$7

Case 16-32435-bjh7 Doc 763 Filed 01/31/19 Entered 01/31/19 08:41:27 Page 19 of 25 Airgas USA LLC CNH Industrial Capital America, LLC Randall Walker Farms P.O. Box 3600 2015 Vaughn Rd., Bldg. 400 8240 Manchester Hwy. Lancaster PA 17604-3600 Kennesaw, GA 30144 Morrison, TN 37357 Monrovia Nursery Company Michigan Dept. of Treasury Juan F. Rodriguez Bankruptcy Unit 817 E. Monrovia Place 625 Ruth Hildreth Rd. PO Box 30168 Azusa, CA 91702 Smithville, TN 37166 Lansing, MI 48909 Wood Chips – More, Inc. Adrian Williams GAP Factoring, Inc. PO Box 206 For Hooper Trucking, LLC 439 N. West St. Attn: Sierra Dardanelle, AR 72834 Quincy, FL 32351 PO Box 5329 Twin Falls, ID 83303 Weeks Roses Grand River Dam Authority Canon Financial Services, Inc. 230 Mary Avenue Attn: Legal Dept. c/o Platzer, Swergold et al 226 West Dwain Willis Ave. Gleendale, IN 47025 Attn: Sherri Dl Lydell Vinita, OK 74301 475 Park Avenue South, 18th Floor New York, NY 10016 B-G Supply Co., Inc. Ferrell Gas Semco Energy 632 W. Broad St. Attn: Jamie Bennett One Liberty Plaza MD 40 Smithville, TN 37166 Liberty, MO 64068 1411 3<sup>rd</sup> St., Ste. A Port Huron, MI 48060 C-J Enterprises Pine Acres Estates Association, LLC Jose L. Moreno PO Box 643 c/o Richard H. Brolick c/o Berry - Otterson, PLLC Gentry, AR 72734 2877 Judson Road Attn; Brian R. Berry 2230 East 49th Street., Suite A Spring Lake, MI 49456 Tulsa, OK 74105 Tennessee Dept of Revenue Michigan Dept of Treasury Maria A. Marquez TDOR c/o Attorney General MI Atty General // Revenue & Collections c/o Berry – Otterson, PLLC P.O. Box 20207 P.O. Box 30754 Attn; Brian R. Berry 2230 East 49th Street., Suite A Nashville TN 37202 Lansing MI 48909 Tulsa, OK 74105 Angel Coronado Maria De Gonzalez Ruiz R.J. Holdings, Inc. c/o Berry-Otterson, PLLC c/o Berry-Otterson, PLLC d/b/a Resource Plus, Inc. Attn: Brian R. Berry Attn: Brian R. Berry Bill Watson 2230 E. 49<sup>th</sup> St., Ste. A 2230 E. 49<sup>th</sup> St., Ste. A 160 Cedar Pointe Dr. Tulsa OK 74105 Tulsa OK 74105 Mooresville NC 28117 OK Dept of Ag, Food & Forestry Westland Freight, Inc. Pacific Mulch, Inc. Attn: Bennett Abbott 2905 NE 157th Ct. P.O. Box 60 2800 N. Lincoln Blvd. Vancouver WA 98682 650 Peter Gill Road Oklahoma City OK 73105 Henderson NC 27536

Class C Solutions Group

75 Maxess Road

Melville NY 11747

A Bus. Of MSC Indust Supp.

Autozone, Inc.

Memphis TN 38101

P.O. Box 10

Dept. 9003

Sheldon Oil Company, Inc.

2801 Third Street

Tillamook OR 97141

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C-S Electric Service, LLC Jamie Riley Tulsa Coffee Service, Inc. P.O. Box 368 2001 Winoca Rd. SW d/b/a Java Dave's Exec Coffee 220 N. Ferry St. Wilson NC 27893 P.O. Box 581238 Grand Haven MI 49417 Tulsa OK 74158 Airgas USA, LLC Middle TN Natural Gas Util Dist Label Logic, Inc. 110 W. 7<sup>th</sup> Street c/o Strasburger & Price P.O. Box 670 Attn: H. Gilles & A Edson **Suite 1400** 1036 West Broad Street Smithville TN 37166 901 Main Street, Suite 4400 Tulsa OK 74119 Dallas TX 75202 Merle Boes, Inc. Walter A. Woods Supply Inc. A-A Nursery P.O. Box 100 Ronnie Alonso P.O. Box 1887 Rossville GA 30741 3177 Lyinchburg Rd. Holland MI 49422 Winchester TN 37398 Kiara Robinson Merrill Corporation GOFDI – Go For Direct Indepen. 512 Edrington Ave. One Merrill Circle P.O. Box 210337 Osceola AR 72370 Saint Paul MN 55108 Bedford TX 76095 Army-Air Force Exchange Serv. Total Quality Logistics, LLC Maria J. Garcia Attn: Joseph Wells AAFES-GC-G c/o Berry-Otterson PLLC 4289 Ivy Pointe Blvd. Attn: Brian R. Berry 3911 S. Walton Walker Blvd. Cincinnati OH 45245 2230 E. 49<sup>th</sup> St., Ste. A Dallas TX 75236 **Tulsa OK 74105 ULine Shipping Supplies** United Parcel Service Domestic Reliable Factors, Inc. d/b/a H-H Transportation of OKC 12575 Uline Drive c/o RMS (An IQOR Co.) 1511 Heritage Lane Pleasant Prairie WI 53158 P.O. Box 361345 Florence SC 29505 Columbus OH 43236 Anthony Tesselaar USA, Inc. Security Tech. Services FedEx Corp. Services, Inc. Holland Lock - Safe Of FedEx Express/Ground/Freight 15200 Mansel Avenue 503 W. 17th Street 3965 Airways Blvd. Lawndale CA 90260 Module G., 3<sup>rd</sup> Floor Holland MI 49423 Memphis TN 38116-5017 Nat'l Un Fire Ins Co of Pittsburgh o/b/o Taimen Transport, LLC **Fastenal Company** Certain Affiliates of AIG Properties 1209 Pointe Centre Dr., Ste 205 2001 Theurer Blvd. Attn: Eric Manne Chattanooga TN 37421 Winona MN 55987 175 Water Street, 15th Floor NY NY 10038 D+H Bark, Inc. East Coast Equip. LLC A.M. Leonard, Inc. 6020 N. 27 Road 2117 Central Park Drive Attn: Debbie Manton MI 49663 Winterville NC 28590 P.O. Box 816 Piqua OH 45356-0816 Blue Dot Solutions, Inc. Deere Credit, Inc. Potomac Farms Nursery 1120 Lincoln St., Suite 1507 P.O. Box 579 c/o Blalack-Williams PC

Attn: Sharon H. Sjostrom

Dallas TX 75244

4851 LBJ Freeway, Ste. 750

Denver CO 80203

Shepherdstown WV 25443

Case 16-32435-bjh7 Doc 763 Filed 01/31/19 Entered 01/31/19 08:41:27 Page 21 of 25 Keith Peuse Woody G. Hillis Cintas First Aid & Safety #418 1108 N. 105<sup>th</sup> E. Avenue 1212 Northcutt Cove Road 800 NW Broad St., Suite 8 Murfreesboro TN 37129 McMinnville TN 37110 Tulsa OK 74116 Harrell's, LLC Jose L. Moreno 2Plant International, LL.c c/o Berry-Otterson, PLLC c/o Bast Amron LLP Attn: Duriya Khinojwala Attn: Brian R. Berry 4996 Foote Road Attn: J. Bast & Z. Laux One SE 3<sup>rd</sup> Ave., Suite 1400 2230 E. 49<sup>th</sup> St., Ste. A Medina OH 44256 Miami FL 33131 Tulsa OK 74105 WT Transfer Holding Co d/b/a Bailey Nurseries, Inc. Gadsden County Tax Collector Williams Tractor, Inc. 1325 Bailey Road P.O. Box 817 P.O. Box 1346 Saint Paul MN 5519-6313 Quincy FL 32353-0817 Fayetteville AR 72702 Griffin Greenhouse Supplies Waste Management Wells Fargo Vendor Financial Serv. Rick Hyslip / Griffin Greenhouse c/o Jacquolyn E. Mills Agent for BOA Leasing Capital 1619 Main Street 1001 Fannin Street WFVFS Bankruptcy Houston TX 77002 P.O. Box 13708 P.O. Box 36 Tewksbury MA 01876 Macon GA 31208 Wells Fargo Equipment Finance Angel Coronado DP Brown of Detroit / Motion Indust. WFEF / Attn: Douglas L. Hein c/o Berry-Otterson, PLLC 1646 Champagne Dr. N MAC N9300-100 Attn: Brian R. Berry Saginaw MI 48604 600 S. 4<sup>th</sup> St., 10<sup>th</sup> Floor 2230 E 49<sup>th</sup> St., Ste. A Tulsa OK 74105 Minneapolis MN 55415 First Medical, LLC Med-1 Holland, LLC Northland Express Transport Attn: Mary Alice Ehrlich Attn: Mary Alice Ehrlich Attn: R. Hillegonds & M. Johnson 1140 Monroe Ave. NW Ste. 150 45 Ottawa Ave., SW, Suite 1100 1140 Monroe Ave. NW Ste. 150 Grand Rapids MI 49503 Grand Rapids MI 49503 Grand Rapids MI 49503 C-J Bark Haulers, Inc. Telnet Worldwide, Inc. Wal-Mart Stores, Inc. c/o Braun Kendrick Finkbeiner Warner Law Firm Charles B. Hendricks Attn: David L. Puskar P.O. Box 1055 900 Jackson St., Suite 570 4301 Fashion Square Blvd. Troy MI 48099 Dallas TX 75202 Saginaw MI 48603 Life Ins. Co. of N. America Harrell's, LLC Crystal Financial LLC as CIGNA—Attn: Mary Jo Shertick c/o Bast Amron LLP Term Loan Agent 900 Cottage Grove Road, B6LPA Attn: Jeffrey P. Bast, Esq. c/o Proskauer Rose // T Karcher Bloomfield CT 06002 1 SE Third Ave., Suite 1400 Eleven Times Square Miami FL 33131 New York NY 10036 Casa Flora, Inc. PNC Bank, National Association Volvo Financial Serv, a Division of VFS, US, LLC P.O. Box 41140 c/o Robert W. Jones Volvo Financial Services Dallas TX 75241 200 Crescent Court, Suite 1600 P.O. Box 26131 Dallas TX 75201 Greensboro NC 27402

Sogeti USA, LLC
Pape Material Handling
Attn: Matt Huber
7000 SW Sandburg
10100 Innovation Dr., Suite 200
Tigard OR 97223
Dayton OH 45342

Southern Wholesale Nursery Russell Milstead 786 Northcutt Cove Road McMinnville TN 37110

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Triangle Capital Corp as State of NJ, Div of Taxation Carrie Caforia Agent for Lenders P.O. Box 245 5101 S. Cherokee, #607 Attn: Anna B. Osterhout, Esq. Trenton NJ 08695 Muskogee OK 74403 P.O. Box 2611 Raleigh NC 27602-2611 Principal Life Ins. Co, an IA Corp Verizon Business Global, LLC Deere Credit, Inc. c/o Principal Real Estate Investors John Deere Financial c/o Stinson Leonard Street Attn: Alex Mather Attn: Tracey M. Ohm P.O. Box 6600 1775 Pennsylvania Ave NW Ste 800 711 High Street Johnston IA 60131 Des Moines IA 50392 Washington DC 20006 IPFS Corp. L-M Transportation Services, Inc. **OK Workers Comp Code** 30 Montgomery St., Ste. 1000 Attn: James B. Angell Attn: Eric Odom Jersey City NJ 07302 P.O. Box 12347 P.O. Box 657 Raleigh NC 27605 Oklahoma City OK 73101 Berry and Berry Acquisitions, LLC Fishback Nursery, Inc. Surface Nursery, Inc. Gable - Gotwals, PC c/o Malone Akerly Martin // B Akerly c/o Malone Akerly Martin // B Akerly 100 W. Fifth Street, Suite 1000 8750 N. Central Expressway 8750 N. Central Expressway Suite 1850 **Suite 1850** Tulsa OK 74103 Dallas TX 75231 Dallas TX 75231 Bridgett L. Zanders C.H. Robinson Worldwide, Inc. Dennis R. Hartman Supply 2043 Martin Luther King 14701 Charlson Road 7274 Mergener Road Quincy FL 32351 Eden Prairie MN 55347 Fruitport MI 49415 **BASF** Corporation Locke Supply Co. Consumers Energy Company Attn: Cheryl Blow Attn: D. Fryer One Energy Plaza 100 Park Avenue Jackson MI 49201 P.O. Box 26128 Oklahoma City OK 73176-0128 Florham Park NJ 07932 **UPS** Official Cte of Unsec. Creditors Griffin Greenhouse Supplies, Inc. c/o Receivable Mgmt Services c/o Munsch Hardt Kopf c/o Ruberto, Israel-Weiner, PC P.O. Box 361345 K Lippman, T Berghman, D Perry Attn: Brendan C. Recupero Columbus OH 43236 255 State St., 7<sup>th</sup> Floor 500 N. Akard Street Boston MA 02109 Dallas TX 75201-6659 Label Logic, Inc. Holland Charter Township Next Level Partners, LLC 4520 Pine Creek Road 353 North 120th Ave. 2338 Immokalee Road, Suite 415 P.O. Box 3002 Holland MI 49424 Naples FL 34110 Elkhart IN 46515 Greener Side Nursery/E Johnson Consumers Energy Company Occupational Health Centers Attn: Legal Department P.O. Box 3700 Mark Parkhurst Rancho Cucamanga CA 91729 One Energy Plaza 338 Parkhurst Road Jackson MI 49201 McMinnville TN 37110

IPFS Corp. Imperial Prem Fin Spec

P.O. Box 730223

Dallas TX 75373

L&M Transportation Services

2925 Huntleigh Dr., Suite 104

Raleigh NC 27604

PNC Bank NA - Lender and Agent

2100 Ross Avenue, Suite 1850

Ronald Eckhoff

Dallas TX 75201

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Sunbelt Rentals 1275 W. Mound St. Columbus OH 43223 D&H Bark, Inc. 6020 N. 27 Road Manton MI 49663 B&G Supply Co., Inc. 532 West Broad St. Smithville TN 37166

East Coast Equipment Co. P.O. Box 3485 Wilson NC 27893 Sidhu & Sons // Briggs Nursery P.O. Box 658 Elma WA 98541 Foliage Plants, Inc. 20301 SW 280 Street Homestead FL 33031

Safety Products Division of Action Industrial Supply Co.

1840 Sixth St. Muskegon MI 49441 Heriberto Saenz c/o D. Dwyer Texas Rio Grande Legal Aid 301 S. Texas Ave. Triangle Capital Corp. Matthew A. Young 3700 Glenwood Ave., Suite 530 Raleigh NC 27612

Walton Farms 6886 County Hwy 44 Upper Sandusky OH 43351 Cody Huggins 5722 E 82<sup>nd</sup> St. N Fort Gibson OK 74434

Mercedes TX 78570

FL Department of Revenue P.O. Box 6668 Tallahassee FL 32314-6668

Deans Oil Co., Inc. P.O. Box 1446 Wilson NC 27894 Noe Escalera 645 SW Liberty Bell Dr. Beaverton OR 97006 ZZ Acquisitions, LLC 4838 Jenkins Ave. North Charleston SC 29405

GW Transportation, LLC William Johnson 1120 Ben Hill Blvd. Nolensville TN 37135 MO Department of Labor P.O. Box 59

Jefferson City MO 65104-0059

2 Plant International, LLC c/o Duriya Dhinojwala 75 East Market Street Akron OH 44308

Turkey City 280 North River, Suite B Holland MI 49424 Geneva Health Center 5752 East Main St. Hillsboro, OR 97123-6895 Verizon
By American InfoSource as agent

Do It Best Corp. Michael O'Hara / Barrett McNagny 215 East Berry Street Fort Wayne IN 46802

Arkadin US c/o Arkadin, Inc. 1501 E Woodfield Rd., Suite 400E Schaumberg IL 60173 Jason Miller 345 Lassiter Road Smithville TN 37166

4515 N Santa Fe Ave. OK City OK 73118

Cimarron Lumber and Supply Co. Bonnie Park Burry 4000 Main Street Kansas City MO 64111 US Attorney 1100 Commerce Street Third Floor Dallas TX 75242 William G. Johnson 1120 Benhill Blvd. Nolensville TN 37135

Miguel Soto 6692 Short Mountain Hwy Smithville TN 37166 Rocio Soto 7024 Short Mountain Hwy Smithville TN 37166 Ryder Truck Rental, Inc. Jennifer Morris 6000 Windward Parkway Alpharetta GA 30005

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Jaime Serrano 184 Sawmill Road McMinnville TN 37110

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